EX PARTE OR LATE FILED

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11 December 1998

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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

Magalie Roman Salas Secretary Federal Communications Commission The Portals 445 Twelfth Street, S.W. Washington, D.C. 20554

Re: Ex Parte

CC Docket No. 96-115

Dear Ms. Salas:

The Association of Directory Publishers ("ADP") hereby submits the attached memorandum in response to BellSouth Corporation's ("BellSouth") ex parte filing of November 19, 1998 in the abovereferenced proceeding.

Pursuant to the Commission's rules, two (2) copies of this letter are being filed. Please call the undersigned at (202) 429-4746 or Sophie J. Keefer at (202) 429-4730 if you have any questions regarding this filing.

Sincerely,

Theodore unitering Theodore Whitehouse Attorney for ADP

Attachments

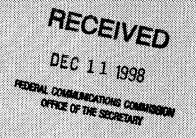
Lawrence E. Strickling

Dorothy T. Attwood Jane E. Jackson William A. Kehoe III Douglas Galbi

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RESPONSE OF THE ASSOCIATION OF DIRECTORY PUBLISHERS TO BELLSOUTH'S EX PARTE FILING OF NOVEMBER 19, 1998

DECEMBER 11, 1998

I. INTRODUCTION AND SUMMARY.

The Association of Directory Publishers ("ADP") hereby responds to BellSouth Corporation's ("BellSouth") ex parte filing of November 19, 1998 in the above-referenced proceeding. In its filing, BellSouth has attempted to mislead the Commission concerning the importance of reasonable, nondiscriminatory access to subscriber list information ("SLI") to healthy competition in the directory publishing business and to discourage the Commission from promulgating rules consistent with the Congressional mandate of Section 222(e) of the Telecommunications Act of 1996.

BellSouth's basic point is that it and other local exchange carriers ("LECs") can be trusted to carry out their duty under Section 222(e) to deal fairly with their independent directory publisher competitors so that no Commission rules are needed to protect those independent publishers. Of course, Congress already rejected that argument when it decided to enact Section 222(e). BellSouth's latest filing is, itself, powerful evidence of the need for rules. The cynical lack of candor this filing shows toward the Commission is but a pale shadow of the harsh treatment BellSouth inflicts upon its relatively powerless would-be rivals in the yellow pages business.

In this most recent submission, BellSouth has:

- used unsubstantiated (and probably incorrect) data concerning independent directory publishers' profitability in order to suggest that the Commission disregard the Commission's determination in implementing Section 222(e);
- erroneously claimed that an independent publisher who regularly obtains SLI from BellSouth does not obtain SLI from BellSouth;

- overstated the number of independent publishers who obtain SLI from alternative sources by including publishers who do not publish in BellSouth's service areas or region, or who are no longer in business; and
- failed to explain that independent publishers do not subscribe to many of BellSouth's SLI service options, such as the New Connect Report and Daily Updates services, due to the unreasonably high prices BellSouth charges for these services.

BellSouth would have the Commission believe that independent publishers can obtain SLI from sources other than the LECs and still successfully compete with BellSouth's directory-publishing affiliate, BellSouth Advertising & Publishing Corporation ("BAPCO"). The truth is that independent publishers can not bring consumers the benefits of meaningful competition with BAPCO and other LECaffiliated publishers without access to BellSouth's and other LECs' There is only a single, primary source for SLI and that is the LEC with whom the dial tone customer has subscribed. other secondary source is, by definition, less accurate, complete, and up-to-date. The persistently misleading presentations to the contrary by and on behalf of incumbent LECs, of which BellSouth's is the most recent, have delayed and misled the Commission long enough. For the reasons set forth below, the Commission should recognize BellSouth's November 19, 1998 ex parte filing for what it is and promptly promulgate rules implementing Section 222(e).

II. THE PROFITABILITY OF THE DIRECTORY PUBLISHING BUSINESS IS IRRELEVANT TO THE COMMISSION'S IMPLEMENTATION OF THE CONGRESSIONAL MANDATE OF SECTION 222(e).

BellSouth provides "illustrative" models intended to show that the directory publishing business is so profitable that no regulation of SLI is necessary. This argument is, of course, utterly irrelevant. Nothing in the statute conditions BellSouth's obligations or independent publishers' rights on anyone's profitability. Even if relevant, BellSouth's data would have to be disregarded because they are wholly unsubstantiated. Of course, any sample that includes LEC-affiliated publishers like BellSouth's BAPCO will show substantially higher profitability, because publishers like BAPCO enjoy monopoly profits that would be striking in any industry.

In addition, BellSouth fails to provide any evidence to support its assertion that \$300 per inch is "a conservative industry estimate for the sales price for yellow pages advertisements," a statement that, in any event, addresses only revenue, not profit. Indeed, one of the principal reasons BellSouth and other LECs wish to stymie the growth of independent publishers, like ADP's members, is that independent publishers typically offer lower advertising rates and more innovative and consumer-friendly products. In addition, BellSouth's model does not take into account BellSouth's other SLI service offerings, including Daily Updates (\$1.50 per listing) and New Connect Reports (\$2.00 per listing). Finally, if these models are to be given any weight at all by the Commission, BellSouth should be required to provide similar data regarding the profits of BAPCO, which are likely to be orders of magnitude higher

Ex Parte Filing of BellSouth in CC Docket No. 96-115, at 2-3 (Nov. 19, 1998) ("BellSouth Ex Parte").

² <u>Id.</u> at 3.

than the profits of even the most successful independent publishers. For these reasons, the Commission should disregard BellSouth's models because they are unsubstantiated and biased.

More importantly, however, BellSouth's observations regarding independent publishers' revenues are entirely irrelevant to the Commission's implementation of Section 222(e). That independent publishers enjoy some profit should surprise no one since it is elementary economics that American businesses exist to make profit. Although SLI is but one input in the directory publishing process, every directory publisher (including BAPCO) knows that a successful directory can not be published without accurate and up-to-date SLI. When listings are absent or incorrect, consumers form the perception that the directory is of inferior value than the LEC-affiliated directory. In turn, advertisers are less willing to purchase advertising space and the independent publisher's ability to compete is diminished. Acknowledging this reality, Congress enacted Section 222(e) in order to ensure nondiscriminatory and reasonable If Congress had not perceived a genuine need to access to SLI. ensure competitively meaningful access to the LECs' SLI by independent publishers, Section 222(e) would have been unnecessary.4

BellSouth contends that "[t]he only party that will benefit from [price] regulation [of SLI] is the independent publishers who will receive higher profits." Id. at 3 n.4. To the contrary, price regulation will enable increased competition in the directory publishing market. In turn, advertising rates will more closely resemble their underlying costs, thereby reducing the cost of advertising for businesses. Consumers will benefit from the commensurate reduction in the prices of goods and services.

As a matter of statutory construction, it is assumed that Congress intends to give effect to all statutory provisions so

In the face of the clear Congressional mandate of Section 222(e), BellSouth's contention that "directory publishing is a competitive business and should be allowed to operate in an unregulated environment" is disingenuous. An industry in which, in any given place, an incumbent like BellSouth has more than 90 percent of the market, and a few small firms, dependent on the incumbent for essential inputs, fight for the rest could not possibly be called "competitive."

III. PURSUANT TO ITS LONG-STANDING DEFINITION OF "REASONABLE RATES", THE COMMISSION MUST REQUIRE SLI TO BE PROVIDED AT COST-BASED RATES.

BellSouth's central contention is that Section 222(e) does not permit the Commission to require that LECs provide SLI at cost-based rates. BellSouth is wrong in assuming that the Commission may not adopt a standard based on cost simply because Congress did not explicitly define "reasonable rates" in Section 222(e). Congress enacted Section 222(e) in order to promote competition in the directory publishing market. Congress' goal can only rationally be achieved by ensuring that independent publishers pay for listings at a price approaching the incremental cost of providing them.

that no part will be inoperative or superfluous. <u>See</u> Sutherland Stat. Const. § 46.06 (6th ed.).

⁵ BellSouth Ex Parte at 1.

See id. at 4 ("[T]here is no statutory basis to require LECs to provide [SLI] services under cost based rates.").

BellSouth claims that cost-based pricing would "exclude[] any contribution to [its] overhead costs, much less an economic profit " BellSouth Ex Parte at 4. BellSouth ignores that fact that, as a LEC, it is required to maintain a subscriber database regardless of whether directory publishers purchase these listings. Thus, all fees paid by publishers in

Congress' decision to leave the defining of reasonable rates to the Commission as expert agency does not mean that Congress rejected a standard based on cost. Indeed, given the Commission's long history of using cost as the touchstone for calculating a reasonable rate, Congress must be understood to have incorporated this definition in Section 222(e).

As a result, BellSouth's reliance on findings made by the Florida Public Service Commission and recommendations made by Louisiana Public Service Commission staff¹¹ unequivocally underscores

excess of the incremental cost of providing SLI represent return on BellSouth's investment. Cost data indicate that SLI costs BellSouth less than \$0.003 per listing to maintain. Accordingly, BellSouth's \$0.04 price represents profits of more than 1,300 percent. See BellSouth Cost Study (Feb. 8, 1993), submitted as Attachment 1 to ADP Ex Parte in CC Docket No. 96-115 (filed Feb. 24, 1997). By any measure, 1,300 percent is an "economic profit".

In <u>Direct Media Corporation v. Camden Telephone</u>, No. CV296-108 (S.D. Ga. Dec. 2, 1998), a U.S. District Court concluded that "[t]he question of what constitutes a reasonable rate for telephone directory listings under Section 222(e) should be resolved by the FCC" because "[t]he FCC has more knowledge and expertise in this area . . ., and uniformity in this determination is important." Id. at 17.

See, e.q., ALLTEL Corp. v. FCC, 838 F.2d 551, 557 (D.C. Cir. 1988) ("A basic principle used to ensure that rates are 'just and reasonable' is that rates are determined on the basis of cost.").

See <u>CBS</u>, <u>Inc. v. FCC</u>, 453 U.S. 367, 385 (1981) (Where Congress has failed to repeal or revise a statutory term in the face of long-standing administrative interpretation of such term, its actions may be taken as "persuasive evidence that that interpretation is the one intended by Congress.")

ADP notes that, to date, the staff recommendations have not been adopted by the Louisiana Public Service Commission. Thus, the Commission would be ill-advised to rely on the staff recommendations, as BellSouth urges.

the need for national rules concerning the provision of SLI. While Florida and Louisiana have fundamentally misunderstood the mandate of Section 222(e) and approved "market-based" pricing of SLI, other states, such as New York and California, have come to the opposite conclusion and explicitly required cost-based pricing. Accordingly, it is the responsibility of this Commission to set national guidelines to ensure that directory publishers, many of whom publish directories in multiple states, are not burdened by inconsistent state regulations.

BellSouth and other LECs urge the Commission to adopt "market rates" for SLI. ¹² However, there is no "market" for SLI. The concepts of "market price" and "market value" presuppose the existence of an open market, in which a willing vendor "and a purchaser who desires to buy but is not compelled to take the particular article" agree on a price through negotiation and mutual assent. ¹³ These conditions are not present in the "market" for SLI. For every subscriber, there is only a single provider of listing information, the LEC to which that individual or business subscribes for local telephone service. Because each LEC is the monopoly provider of its own SLI, independent publishers must pay the price LECs ask, or forego the purchase of SLI altogether. ¹⁴ BellSouth is

See BellSouth Ex Parte at 5-6; see also Ex Parte Filing of USTA in CC Docket No. 96-115 (Nov. 20, 1998) ("USTA Ex Parte").

Black's Law Dictionary 670-71 (6th ed. 1991).

The U.S. Copyright Office and the LECs themselves have acknowledged that SLI is an "essential facility" in the directory publishing business. See U.S. Copyright Office, Report on Legal Protection for Databases, at 102 (August 1997); Affidavit of T.H. Avery III, Vice President and General Manager

well aware that if its charges are far above cost, its competitors are disadvantaged. BellSouth makes its money on yellow pages, not SLI, so it does not care if its high prices for SLI drive away all of its independent publisher customers. This is precisely the problem Congress sought to correct in enacting Section 222(e).

IV. ACCURATE AND UP-TO-DATE SLI CAN BE OBTAINED FROM NO PRACTICAL SOURCE BUT THE LECS.

BellSouth insists that "SLI can be obtained from entities other than LECs." As shown below, most "alternative sources" for SLI obtain these data from the LECs themselves. Inevitably, these data are significantly less accurate and up-to-date than SLI obtained directly from the LECs because non-LEC databases cannot be updated as frequently as LEC databases. Most other databases of names, addresses, and telephone numbers contain data copied from published telephone directories that were stale when the book was published. Independent publishers are, of course, free to copy such data themselves. If that were good enough, ADP's members would not be bearing the costs of continued participation in this proceeding.

As ADP has advocated before the Commission on numerous occasions, the LECs are the only source of up-to-date and accurate SLI. Advertisers and consumers will not have the benefit of meaningful competition in the yellow pages business if the Commission does not act to ensure independent publishers reasonable

of Southwestern Bell Media, Inc., <u>BellSouth Advertising & Publishing Corp. v. Donnelly Info. Pub., Inc.</u>, Case No. 85-3233-CIV-SCOTT, at 4 (U.S. Dist. Ct. S.D. Fla. 1986).

BellSouth Ex Parte at 7.

access to these data. "SLI" stands for "subscriber list information." Only the LECs have subscribers. A second-hand list of people who were subscribers six months or a year ago is in no sense equivalent to a list of subscribers. If other, reliable sources for SLI existed, independent publishers would have taken advantage of these sources. By claiming that SLI is available from other sources, BellSouth attempts to render Section 222(e) a nullity.

BellSouth claims that SLI is available from sources such as "the Internet, new business lists from selected communities, or Chamber of Commerce lists." These sources of SLI are not comparable to BellSouth's database of subscriber listings. For example, a call to American Business Information, Inc.'s ("ABII") toll free number disclosed that ABII obtains its listings from published telephone company white pages and only updates them twice a year. BellSouth knows this, having unsuccessfully sued ABII for copyright infringement for copying these very data from BellSouth's directories. Use of ABII's on-line "U.S. Directory Assistance" to obtain business and residential listings service revealed that many listings included in the LECs' directory for a given geographic area

^{16 &}lt;u>Id.</u>

Telephone Conference Between Sophie J. Keefer, Associate, Willkie, Farr & Gallagher, and S.K. Hashmi (1-800-284-8353 ext. 4457), Sales Representative, InfoUSA, Inc., on December 8, 1998.

See BellSouth Adver. & Publ'q Corp. v. American Bus. Lists, Inc., Civil No. 1:90-cv-149-JEC (N.D. Ga.).

are absent from ABII's directory. BellSouth itself revealed that Metromail's database is only "95 percent" complete and is only "updated 65 times per year. "20 It, too, is based on copying of published telephone books, as BellSouth well knows from years of unsuccessful copyright litigation. BellSouth's database, by contrast, is updated daily and is 100 percent complete for BellSouth's region.

BellSouth also claims that 23 publishers in BellSouth's region "are obtaining their listing information from sources other than BellSouth." BellSouth's assertions are both inaccurate and misleading and should be disregarded by the Commission. Of the 23 publishers that BellSouth claims obtain listings from alternative sources, only five are current ADP members. Of these five, only one ADP member, Impact Directories, Inc., would have reason to purchase from BellSouth, but has been forced to use secondary sources because of the excessive cost of purchasing SLI from BellSouth, recognizing that such a decision renders its directory less competitive. Thus, no ADP member chooses not to purchase BellSouth SLI because suitable alternative sources of SLI are available, as BellSouth suggests.

BellSouth maintains that Paxton Media Group, an ADP member, does not purchase listings from BellSouth. This is not true; Paxton Media Group regularly purchases listings from BellSouth. Larson Directories and Valley Yellow Pages, also ADP members, are listed by

See Attachment A.

BellSouth Ex Parte at 7.

²¹ <u>Id.</u>

BellSouth as not purchasing listings. Neither Larson Directories nor Valley Yellow Pages publishes directories in BellSouth's service areas and consequently neither has reason to purchase BellSouth SLI.

McLeod USA Publishing, another ADP member, is also listed, yet has never published in the BellSouth region. Thus, it is not surprising that this publisher does not purchase BellSouth listings.

Therefore, it is misleading to suggest that these publishers have chosen not to purchase BellSouth listings in favor of viable alternative sources for SLI.

In addition, Main Street Directories, Inc. and Platinum Pages, Inc., former ADP members also on the list, are no longer in business. It consequently is not remarkable that these publishers do not purchase listings from BellSouth. Again, it is misleading to suggest that these publishers have made a conscious choice not to purchase BellSouth SLI. All other publishers who allegedly do not purchase listings from BellSouth are not ADP members. It is very likely that these publishers either do not publish in BellSouth's service areas or do not publish directories that are competitive with BellSouth's. BellSouth's pattern of repeated misrepresentations concerning the source of SLI has unnecessarily

Platinum Pages was purchased by The SunShine Pages. The SunShine Pages purchases SLI from BellSouth. Thus, Platinum Pages also purchases SLI from BellSouth. Similarly, Mainstreet Directories was purchased by Southern Directory Publishing. Southern Directory Publishing purchases SLI from BellSouth.

If they published directories substitutable for BellSouth's, they would more than likely be ADP members.

prolonged this rulemaking and exhibited a lack of regard for the Commission's personnel and procedures that is inexcusable.²⁴

V. BELLSOUTH DOES NOT PROVIDE SLI UNDER REASONABLE, NONDISCRIMINATORY, OR UNBUNDLED TERMS AND CONDITIONS.

BellSouth contends that it offers SLI services on a "non-discriminatory and unbundled basis" and that its rates are "non-discriminatory and reasonable."²⁵ Even a cursory review of BellSouth's schedule of prices reveals that these statements are patently untrue. For instance, several BellSouth SLI service offerings fall short of the "reasonable" standard of Section 222(e). BellSouth's update services are priced at such high levels that few, if any, independent publishers are able to afford to subscribe to them. For example, BellSouth testified before the Louisiana Public Service Commission that no publishers purchased its Daily Updates and New Connect Report services.²⁶ While BellSouth characterizes this result as "very little demand,"²⁷ the reality is that most publishers consider the prices for these services excessive and unreasonable.

See Letter from Dolores E. Wagner, White Directory Publishers, Inc., to Kathryn C. Brown, then-Chief, Common Carrier Bureau, FCC, and S. Jenell Trigg, Assistant Chief Counsel, Telecommunications, Office of Advocacy, U.S. Small Business Administration, dated Oct. 21, 1998, submitted as an ex parte filing in CC Docket No. 96-115 by ADP on Oct. 27, 1998 (requesting the retraction of misleading statements made by BellSouth to the FCC and the Office of Advocacy at SBA concerning the source of White Directory's listings).

BellSouth Ex Parte at 2.

See Attachment B.

BellSouth Ex Parte at 5 n.7.

In addition, BellSouth does not provide SLI on an "unbundled" basis in accordance with the Section 222(e). Specifically, BellSouth requires independent directory publishers purchasing its WBAR service to purchase the small percentage of updated listings that they desire at a rate that is multiplied by the total number of listings maintained by each Central Office involved. Independent publishers typically publish "area wide" or community specific directories that reflect the way people move and shop, not the way telephone company lines are laid. In order to obtain all updates for its service area, usually spanning more than one BellSouth Central Office, an independent publisher must, in essence, repurchase the entire database for each Central Office week after week. Hence, BellSouth does not provide listings on an "unbundled" basis.

Nor does BellSouth provide listings on a "non-discriminatory" basis. Independent publishers do not receive listings under terms and conditions equal to the terms and conditions under which BAPCO receives listings. For example, as discussed above, many LECs have procedures in place to generate SLI for their directory-publishing affiliates that reflect static service areas. The area wide and neighborhood directories published by many independent publishers require more dynamic capability on the part of the LEC. Unless a

The fact that BAPCO is "charged rates in excess of those established in BellSouth's tariffs" is irrelevant. Id. at 4 n.6. BAPCO is a wholly-owned subsidiary of BellSouth. See 3 Directory of Corporate Affiliations at 208 (1988). Thus, whatever BellSouth charges BAPCO for SLI simply flows back to BellSouth.

LEC can provide SLI that is unbundled or sorted according to the specific needs of independent publishers, LEC-affiliated directory publishers effectively will control the content, scoping, and publication dates of competing directories. This is not the result intended by Congress in enacting 222(e), a statute which was conceived in order to promote more choices for consumers, not fewer.

VI. CONCLUSION.

For the reasons set forth above, BellSouth's tactics to delay the implementation of rules requiring reasonable, cost-based prices for SLI should be rejected by the Commission. American Directory Assistance: Search

ATTACHMENT A

Page 1 of 1

American Directory Assistance

To search for a business, you have 3 options:

- 1. Enter the full Company Name. Example: Park Drive Garage
- 2. Enter one or two words of the Company Name. Example: Park Drive
- 3. Enter part of a name followed by an asterisk (*). Example: Park*

Then, enter a city name and state name or abbreviation in the boxes below.

Company Name:	Barnes and Noble Booksellers
City:	Metairie
State:	LA

Click "Search" to find the listings.

Home	CD-ROM Products	Yellow Pages	Directory Assistance
Business Profiles	Sales Leads & Mailing Lists		
Product Pricing	Hot New Businesses		

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Phone: (800) 321-0869 - Fax: (402) 537-6065
email: internet@infousa.com

Oops: No company found

Page 1 of 1

American Directory Assistance

Oops!

- We couldn't find any listings for BARNES AND NOBLE BOOKSELLERS in METAIRIE LA.
 Was everything entered correctly? See the instructions on the previous screen.
- Click "New Search" to start again.

Home	CD-ROM Products	Yellow Pages	Directory Assistance
Business Profiles	Sales Leads & Mailing Lists		
Product Pricing	Hot New Businesses		

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New Orleans

Yellow Pages



1998-99 Special Edition 6 1998 BAPCO

Includes customer listings for all local telecommunications companies.

American Directory Assistance: Search

Page 1 of 1

American Directory Assistance

To search for a business, you have 3 options:

- 1. Enter the full Company Name. **Example:** Park Drive Garage
- 2. Enter one or two words of the Company Name. Example: Park Drive
- 3. Enter part of a name followed by an asterisk (*). Example: Park*

Then, enter a city name and state name or abbreviation in the boxes below.

Company Name: BellSouth Yellow Pages

City: New Orleans

State: LA

Click "Search" to find the listings.

Home	CD-ROM Products	Yellow Pages	Directory Assistance
Business Profiles	Sales Leads & Mailing Lists		
Product Pricing	Hot New Businesses		

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email: internet@infousa.com

Oops: No company found

Page 1 of 1

American Directory Assistance

Oops!

- We couldn't find any listings for BELLSOUTH YELLOW PAGES in NEW ORLEANS LA.
 Was everything entered correctly? See the instructions on the previous screen.
- · Click "New Search" to start again.

| Home | CD-ROM Products | Yellow Pages | Directory Assistance | | Business Profiles | Sales Leads & Mailing Lists | | Product Pricing | Hot New Businesses |

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Yellow Pages



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Includes customer listings for all local telecommunications companies.

31	GREATER NEW ORLEANS	BUS	BELLSOUTHBEREN
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Employment Office Toll Free-Dial '1' & Then 800 447-8261	Ben Hatcher Racing	Bengtsson Walker Marine Inc	2805 E Jodge Perez Dr Merzen 70075 27
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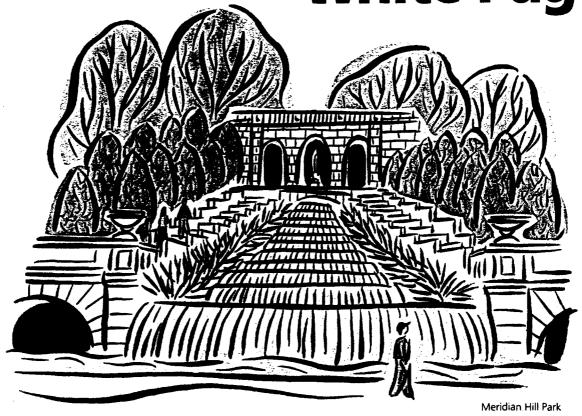
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District of Columbia

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KETCEB Millie Mus	JF Washingto DC 965-2847 John B 300 Taylor St NE Wash - 832-0742 Lyman W 2000 Quelec St NW Wash 966-7967 John B 300 General St NW Wash 966-79678	J 3636 16th St. HW Wash 328-3872 John SZH Sherrier PI NW 966-1300	XEIRSTEAD Thomas 35 ESt NW Wash393-3349	Brian 5709 Nev Ave NW 966-5693 Catherine 2020 F St NW Wash 463-4904
1207 Geranium St NW723-2328 KEASLER S 2318 39th St NW Wash 333-1936	Lyman W 2000 Quebec St NW Wash 966-7967		KEISER A B 3104 Hawthorne St NW 333-4938 George A 4201 Mass Av NW Wash - 537-8511	Cathy 2020 F St NW Wash 530-7905 Chris carpetr 1841 Columbia Rd NW - 328-0138
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Bill 2001 M St NW	Michael 134 F.9. St. Wash 543-6009 Patricia 412 11th St. St. Wash 547-3481	Ross A aty 1250 24th St MW 659-6600 Sandy V 681 S Can St SW Wash 563-0368	KEISLING Bruce 514 E Cap St NE Wash543-7668	Gail E 3937 Legath St NW 363-1908 Holly 3915 Albmrle St NW Wash 244-8916
Brian 1322 Indep Av SE Wash 547-5201 Brian E atty 1255 23rd St NW 857-2779	Polina A 200 Mc Ja INV Wast 333 9439- Robert J GET S NE Wash 544 0185 Robert J of 444 N Cap S NW 638 7030	MEENER Charles 1227 15th St NW 462-5934 DocuM 1200 N St NW 289-8567	KEITA A 3719 2nd St SE Wash 563-6535 G P 1405 Kendy St NW 726-7290	J 3807 Porter St NW Wash 363-1298 James 1255 NH Av NW Wash 293-7522
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Frank aty 2100 Pa Av W 457-7025 Gene 2714 Quarry Rd MW Wash 332-9512 Geoffrey T 1900 K St MW 466-7671	KEEFER A C 3754 Benton St Nw Wash 337-7252 Brian 1605 Oils St NE 529-6024	Mickey 521 Tenn In NE 396-8169 S 2911 Newark St NW 686-4149	Namory 1523 S St NW Wash 986-7751 Nia A S Ms 1414 V St NW 483-0484	M 2727 29th St NW
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Richard J Wash	Brian J 2777 29th St Nw Wash 483-5672 D 132 Mich Av Ne Wash 232-3149 David 4412 Edmunds St NW 625-2197	Patrick 4660 Marin Luther King Jr Av SW Wash WEST KEENY'S M. AT 3600 Alburt NW	Bradley 4601 Conn Av NW Wash 237-8660 DeWitt 3453 Eads NE 399-7848	Thomas W 3427 13th St NW Wash - 332-0475 KELLEM Eether 1218 I St SE Wash 543-3017
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KEBE George 6 Chesapte St SW S63-3546 George Jr—	Kathleen 2500 Wis Av NW Wash - 625-0054 M 2777 29th St NW Wash - 387-0495	Jon 1758 Coron St NW	Virginia M 401 Chaolin St SE · · · · · 581-610/	Kenneth J 1524 10th St NW Z3Z-/0/9 Kevin P 1812 Verson St NW Wash - 387-1926
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BEFORE THE

LOUISIANA PUBLIC SERVICE COMMISSION

BELLSOUTH TELECOMMUNICATIONS, INC., EX PARTE

DOCKET NUMBER U-21760

In re: Revision to the Directory Publishers Database Service (DPDS) tariff to include the option of a Monthly Refresh File.

NOTICE OF AVAILABILITY OF TRANSCRIPT AND DEADLINES FOR FILING POST-HEARING BRIEFS

PLEASE TAKE NOTICE that the hearing transcript has been finalized in this proceeding. Post-hearing briefs may be filed on or before August 7, 1998 and are to consist of proposed findings of fact and conclusions of law.

Baton Rouge, Louisiana, this 14th day of July, \$998.

Valerie Seal Meiners

Chief Administrative Law Judge

cc: Official Service List

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1	BELLSOUTH TELECOMMUNICATIONS, INC., EX PAI	
2	THE DIRECTORY PUBLISHERS DATABASE SERV	
3	INCLUDE THE OPTION OF A MONTHLY REFRESH	FILE.
4	DATE OF HEARING: May 14, 1998	•
5	ADMINISTRATIVE LAW JUDGE: Valerie Seal Meiners	
6	WITNESS	PAGE NO.
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- But, I would just ask the witness to or ask the court to instruct the witness to if he has an explanation, make it relevant to the yes or no answer.
- 3 MR. TWOMEY: Well, Your Honor, I object to that characterization of Mr. Juneau's last response as not being relevant. He asked Mr. Juneau if BellSouth --
- 5 MR. RABORN: As to not being responsive -- not relevant.
- 6 MR. TWOMEY: Well, you just said as it was relevant. I also object to you saying it wasn't responsive because you asked the witness -- Mr. Raborn asked the witness whether or not.

 8 BellSouth could sell these services, and the answer is, we can and we do, and I think the
- 9 answer was perfectly appropriate, it was responsive, it was relevant, and I suppose if he's not 10 moving to strike it, I don't need to say anything else.
- 11 JUDGE MEINERS: So far I don't think Mr. Juneau is crossing that line.
- 12 MR. TWOMEY: Thank you, Your Honor.
- 13 MR. RABORN: Mr. Juneau, these very options proposed in this case are being offered in
- 14 Florida, are they not?
- 15 MR. JUNEAU: Yes.
- 16 O. At these same rates?
- 17 A. Yes.
- 18 Q. Have any independent publishers subscribed to these services in Florida?
- 19 A. No, not that I'm aware of.
- 20 Q. Has BellSouth considered lowering the price to attract purchasers of the products?
- 21 A. Not at this point, no.
- 22 Q. Is that because BellSouth really doesn't want the independent publishers to have this
- 23 information?
- 24 A. No.

yet.

- 25 Q. If you've already incurred the cost to develop the product, why wouldn't BellSouth attempt
- 26 to recover its cost by lowering the price to attract purchases?
- A. I'm not sure that I know how to answer that. At this point in time, it just has not come up
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